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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/960,083	09/21/2001	Michael E. Beard	RTI Energy-4	4353

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EXAMINER

KRECK, JOHN J

ART UNIT

PAPER NUMBER

3673

DATE MAILED: 10/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/960,083

Applicant(s)

BEARD ET AL.

Examiner

John Kreck

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 15-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 22-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-14 and 22-25, drawn to a receptacle assembly, classified in class 166, subclass 352.

II. Claims 15-21, drawn to method of supporting an elongate member, classified in class 166, subclass 244.1. The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus can be used in a process in which the basket is permanently attached to the structure .

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Loren Helmreich on 10/23/02 a provisional election was made with traverse to prosecute the invention of group I, claims 1-14 and 22-25. Affirmation of this election must be made by applicant in replying to this Office

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action. Claims 15-21 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

While applicant may be his or her own lexicographer, a term in a claim may not be given a meaning repugnant to the usual meaning of that term. See *In re Hill*, 161 F.2d 367, 73 USPQ 482 (CCPA 1947). The term "planar" in claim 1 is used by the claim to mean "frustoconical," while the accepted meaning is "flat."

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 8, 13, 14, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Langner (U.S. Patent number 5,269,629).

Langner shows a receptacle assembly (see figure 10) comprising a mounting bracket (75, 76, 80, 81) fixedly attached to a structure (30) and a receptacle basket (72) having an annular body with a throughbore and a basket supporting surface as called for in claim 1.

Langner also shows the tapered supporting surface as called for in claim 8.

Langner also shows the bracket fixed so that the elongate member is positioned off a side of the production structure as called for in claim 13.

Langner also shows the bore at a selected azimuth and elevation as called for in claim 14.

Regarding independent claim 22:

Langner shows a receptacle assembly comprising a mounting bracket (75, 76, 80, 81) fixedly secured to a structure (30) and a receptacle basket (72) having a central throughbore and a basket supporting surface complimentary to a surface on the elongate member and the basket supporting surface arranged that the elongate member is positioned off a side of the production structure as called for in claim 22.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-4, 12, 24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Langner in view of Marshall (U.S. Patent number 5,447,392).

Langner shows all of the limitations of claims 1 and 22, from which these claims depend.

Langner fails to show the basket movable in relation to the bracket, the adjustment member, and the stop.

Marshall shows a similar apparatus which includes the basket movable in relation to a mounting bracket (see figure 5) in order to reduce stress on the joint.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Langner device to have included the basket movable in relation to a mounting bracket as called for in claims 2 and 24, and as taught by Marshall, in order to reduce stress on the joint.

Marshall also shows the basket pivotally supported on the bracket and movable about a horizontal axis, in order to reduce stress. It would have been further obvious to one of ordinary skill in the art at the time of the invention to have further modified the Langner device to have included the basket pivotally supported on the mounting bracket

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and movable about a horizontal axis, as called for in claim 3, and as taught by Marshall, in order to reduce stress on the joint.

Marshall also shows the adjustment member (112), which allows the basket to be moved in order to reduce stress. It would have been further obvious to one of ordinary skill in the art at the time of the invention to have further modified the Langner device to have included the adjustment member (112), as called for in claims 4 and 25, and as taught by Marshall, in order to reduce stress on the joint.

Marshall shows a similar apparatus which has a stop (the cylinder 112 acts as a stop) to limit movement of the basket.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Langner device to have included the stop as called for in claim 12, and as taught by Marshall, in order to limit movement of the basket.

5. Claims 5-7, 9-11, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Langner in view of Recalde (U.S. Patent number 3,922,870).

Langner shows all of the limitations of claims 1 and 22, from which these claims depend.

Langner fails to show the receiving/projecting members, bracket plates, horizontal pin, slot, and locking member.

Recalde shows a similar apparatus which includes receiving/projecting members (30, 32, 40, 42, 44, 46), bracket plates (40, 42, 46), horizontal pin (32), slot (44), and locking member (48) to attach an elongated member support to a structure. The

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hardware shown by Recalde allows for the easy removal and reattachment of the device.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Langner apparatus to have included a receiving member on one and projecting member on the other of the bracket and basket as called for in claims 5 and 23, in order to allow for the easy removal and reattachment of the device.

Also, with regards to the arrangement of the projecting/receiving member, etc; although Langner shows a receiving member on the structure side of the apparatus, the specific arrangement of the projecting/receiving members is considered to be a matter of design choice: it is well established that the reversal of parts is not a patentable distinction. See *In re Gazda*, 219 F.2d 449, 104 USPQ 400 (CCPA 1955) (Prior art disclosed a clock fixed to the stationary steering wheel column of an automobile while the gear for winding the clock moves with steering wheel; mere reversal of such movement, so the clock moves with wheel, was held to be an obvious expedient.).

It would have been further obvious to one of ordinary skill in the art at the time of the invention to have modified the Langner apparatus to have included a projecting member on the basket and receiving member on the bracket as called for in claim 6, in order to allow for the easy removal and reattachment of the device.

It would have been further obvious to one of ordinary skill in the art at the time of the invention to have modified the Langner apparatus to have included a projecting member on the bracket and receiving member on the basket as called for in claim 7, in order to allow for the easy removal and reattachment of the device.

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It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Langner apparatus to have included a left and right side bracket plate and horizontal pin as called for in claim 9, in order to allow for the easy removal and reattachment of the device.

It would have been further obvious to one of ordinary skill in the art at the time of the invention to have modified the Langner apparatus to have included a slot as called for in claim 10, in order to allow for the easy removal and reattachment of the device.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Langner apparatus to have included a locking member as called for in claim 11, in order to allow for the easy removal and reattachment of the device.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. McNary (U.S. Patent number 4,273,068); Burkhardt, et al. (U.S. Patent number 4,039,025); Arit, III, et al. (U.S. Patent number 5,951,061); and Watkins (U.S. Patent number 5,887,659) show similar apparatus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kreck whose telephone number is (703)308-2725. The examiner can normally be reached on M-F 6:00 am - 3:00 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703)308-2978. The fax phone numbers for the organization where this application or proceeding is assigned are

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(703)305-3597 for regular communications and (703)305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)306-4177.

JJK
October 23, 2002


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